

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**



**FILED**

7-26-16  
01:29 PM

Gulsen Maloney,

Complainant,

vs.

Pacific Bell Telephone Company, dba AT&T  
California (U 1001 C),

Defendant

(ECP)

Case No. 16-01-005  
(Filed January 19, 2016)

**RESPONSE OF PACIFIC BELL TELEPHONE COMPANY D/B/A AT&T CALIFORNIA  
(U 1001 C) TO APPLICATION FOR REHEARING OF DECISION 16-06-017**

David J. Miller  
Executive Director – Senior Legal Counsel  
AT&T Services, Inc.  
430 Bush Street, 3<sup>rd</sup> Floor  
San Francisco, CA 94108  
Tel: (415) 268-9497  
Fax: (281) 664-9478  
E-Mail: davidjmill@att.com

*Attorney for AT&T California*

July 26, 2016

## I. INTRODUCTION

In the Application for Rehearing of Decision 16-06-017, filed July 11, 2016 (“Application”), Complainant Gulsen Maloney (“Complainant”) re-asserts arguments that were previously rejected by Administrative Law Judge MacDonald and the Commission in Decision (D.16-06-017),<sup>1</sup> which approved Complainant’s settlement with Pacific Bell Telephone Company dba AT&T California (“AT&T California”) and resolved Complainant’s “local toll calling issue.” Once again, Complainant’s arguments ignore the record in this matter. AT&T California respectfully requests that the Commission reject these arguments once more, and deny Complainant’s Application.

## II. ARGUMENT

### A. Complainant’s Application Fails to Show Any Error in the Decision.

The first and dispositive reason to deny rehearing is that none of Complainant’s arguments allege any “legal error,” as is required by Commission Rule 16.1(c). Rule 16.1(c) of the Commission’s Rules of Practice and Procedure states that the “purpose of an application for rehearing is to alert the Commission to a *legal* error . . . .”<sup>2</sup> Complainant’s Application fails to

---

<sup>1</sup> *Decision Approving Settlement*, issued June 10, 2016 (“Decision”).

<sup>2</sup> *See, e.g., Re Application of California-American Water Company for an Order Authorizing the Collection and Remittance of the Monterey Peninsula Water Management District User Fee*, Decision No. 13-01-040, *Order Modifying Decision 11-03-035 and Denying Rehearing, as Modified*, 2013 WL 392586 (Cal.P.U.C. Jan. 23, 2013), *remanded on other grounds, Monterey Peninsula Water Management Dist. v. Public Utilities Com.* (2016) 62 Cal.4th 693, *mimeo*, p. 13 (emphasis added) (“Rehearing applications are limited by [Public Utility Code] Section 1732 to specifications of legal error. . . .”); *Re Application of Southern California Gas Company (U904G) for Approval of Advanced Metering Infrastructure*, Decision No. 10-11-036, *Order Denying Rehearing of Decision 10-04-027*, 2010 WL 5033811 (Cal.P.U.C. Nov. 19, 2010), *mimeo*, p. 9 (“This request does not raise legal error, and does not meet the purpose for an application for rehearing. (See Pub. Util. Code, §1732; see also, Rule 16.1(c), Cal. Code of Regs., Tit. 20, §16.1, subd. (c) [‘The purpose of an application for rehearing is to alert the Commission to a legal error. . . .’]”); *Re Post-retirement Benefits Other Than Pensions*, Decision No. 96-08-035, *Opinion on Request for Compensation*, 67 Cal. P.U.C.2d 493, 1996 WL 465529 (Cal.P.U.C. Aug. 2, 1996), *mimeo*, p. 1 (“We affirm as the plain meaning of a well crafted statutory framework that an application for rehearing is governed by a time limitation and restricted to the allegation that the Commission order or decision is infected with legal error.”).

raise any legal error that is material to the Commission's Decision (D.16-06-017). Nowhere in the Application is a legal error even mentioned, much less demonstrated in a manner sufficient to meet the threshold established in Rule 16.1(c).

**B. Complainant's Application Seeks to Re-Litigate Issues Resolved in D.16-06-017.**

The bulk of Complainant's Application seeks to re-argue "the issue of restoring Complainant's local toll calling that was previously raised in this proceeding." *See, e.g.*, D.16-06-017, *mimeo*, pp. 3-4. Complainant's arguments for rehearing are simply a reiteration of the same arguments made in her Complaint, and Complainant admits as much when she concludes her Application with a "request [for] the *reconsideration of the facts and the evidence....*" However, re-arguing positions already decided by the Commission based on a disagreement with the Commission's view is consistent with neither Public Utilities Code Section 1732<sup>3</sup> nor Commission precedent.<sup>4</sup>

**C. Response to Complainant's Request for Oral Argument**

Complainant's Application does not raise issues that necessitate oral argument, under Rule 16.3. Complainant does not explain how oral argument will materially assist the Commission in resolving the Application,<sup>5</sup> which is required under Rule 16.3(a). The issues presented by Complainant have already been fully considered. Oral argument is not necessary and thus would be a waste of party and Commission resources.

---

<sup>3</sup> Public Utilities Code Section 1732 provides in pertinent part:

"The application for a rehearing shall set forth specifically the ground or grounds on which the applicant considers the decision or order to be unlawful."

<sup>4</sup> *See, e.g., Universal Studios, Inc. v. Southern California Edison Company*, Decision No. 99-07-020, *Order Denying Application for Rehearing of Decision 99-03-023*, 1999 WL 699505 (Cal.P.U.C. July 8, 1999), *mimeo*, p. 3 ("Rearguing the evidence and disagreeing with the Commission's view of the evidence does not articulate any legal error in our decision as required by Public Utilities Code section 1732 in an application for rehearing. To the extent such is the case, we do not consider such reargument.").

<sup>5</sup> *See Application*, p. 6.

## II. CONCLUSION

For the reasons set forth above, AT&T California respectfully requests that the Application for Rehearing of Decision 16-06-017 filed July 11, 2016, and the request therein for oral argument, be denied.

Dated: July 26, 2016

Respectfully submitted,

\_\_\_\_\_  
/s/

David J. Miller  
Executive Director – Senior Legal Counsel  
AT&T Services, Inc.  
430 Bush Street, 3<sup>rd</sup> Floor  
San Francisco, CA 94108  
Tel: (415) 268-9497  
Fax: (281) 664-9478  
E-Mail: davidjmill@att.com

*Attorney for AT&T California*

692280